

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Suits – High Court – Contempt Case.No.397 of 2009 in W.P. No.2183/2008 is filed by Pothapi Chinta Penchalaiah, S/o. Yerra Nagaiah, aged 52 years, R/o. Needurupalli Village, Gopavaram Mandal, Kadapa District and 117 other respondents for payment of an amount of Rs.76,44,679/- towards decretal charges – Sanction orders – Issued.

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IRRIGATION & C.A.D.(PW-LA.II) DEPARTMENT

G.O.Rt.No.

Dated: 19-03-2010

Read:

1. From the Special Collector (LA), GNSS, Kadapa
Lr.No.A1/200/2008, dated 3.3.2010.

O R D E R:

The Special Collector, LA, G.N.S.S. Kadapa has stated that the Special Deputy Collector, L.A. T.G.P., Unit-II, Mamillapalli, Kadapa has submitted a report stating that Rekalakunta (V) of Gopavaram (M) of Kadapa District is one among the villages submergible under foreshore waters of Somasila Project. As such the structures in Rekalakunta (V) were acquired, awards were passed and compensation was also paid to the awardees in R.Nos. I & II covered by award No. 1/94-95 and 2/94-95 Dated: 3.6.1994 and /-supplemental awards bearing No. 6/95 and 7/95 were passed by the then Special Deputy Collector (LA), Somasila Project, Atmakur. Aggrieved with the rates of compensation, some of the claimants have filed applications U/S. 18 of L.A.Act with a request to refer their applications to the Civil Court for determination of compensation. Accordingly the said applications were referred to the District Judge Court, Kadapa and they were assigned LAOP Nos. 890/99 and 891/99. The said LAOPs were disposed of by the reference court under orders dated: 25.2.2002, enhancing the compensation by 100% over and above the Market Value fixed by the LAO. There after the LAO preferred appeals before the Hon'ble High Court and the same were numbered as LAAS No. 3903/06 and 113/06. These appeals were partly allowed by the Hon'ble High Court reducing the enhanced compensation from 100% as awarded by the reference court to 80%. Accordingly the decretal charges amount relating to the said enhanced compensation was paid to the awardees through the District Judge, Kadapa and subsequently one Sri. Pothapi Chinna Penchalaiah and 156 others have filed Writ Petition in W.P. No. 27219/06 before the Hon'ble High Court of A.P. Hyderabad representing for issue of directions to the LAO to re-determine the compensation amount in respect of their structures in Rekalakunta (V) on par with those of the awardees covered by Judgments delivered by the reference court in LAOP Nos. 890/99 and 891/99, alleging that the applications filed by them U/s. 28-A were not disposed by the LAO and pending. Subsequently the Hon'ble High Court by its order Dated: 29.12.2006 directed the LAO and other Official respondents to dispose of the applications purported to have been made by the petitioners U/s. 28-A if the same are in order and decide as per law, within a period of 4 weeks. Pursuant to the above orders of the Hon'ble High Court, dated: 29.12.2006, an enquiry was conducted after obtaining the 28-A applications and other related material from the then Special Deputy Collector and Land Acquisition Officer, Atmakur. Finally the applications filed by the applicants U/s. 28-A were rejected deciding

that they are time barred by limitation. Aggrieved with the above orders of the LAO, the petitioners have filed a separate writ petition in W.P. No. 19251/07, challenging the orders of the LAO and Special Deputy Collector (LA) T.G.P., Unit –II, Kadapa. The Hon'ble High Court allowed the said writ petition by an order dated: 12.11.2007 with the following observations.

“ In the light of the positive assertions made by the writ petitioners in the affidavit filed in support of the writ petition and also in the light of the prior orders made by this court in W.P. No. 27219/06 and 27220/06 and also taking into consideration the event of filing contempt case in CC No. 635/07, this court thoroughly satisfied that in as much as the applications being made within time, the impugned order cannot sustain and the same is liable to be quashed and is accordingly here by quashed.”

Pursuant to the above orders of the Hon'ble High Court, the applications filed by the petitioners U/s. 28-A were disposed of after conducting due enquiries and awards were passed re-determining the compensation and an amount of Rs. 36,54,356/- was paid to the Awardees in R.No. I and an amount of Rs. 51,75,393/- to the Awardees of R.No. II of Rekalakunta (V) of Gopavaram (M). While determining the difference amount payable to the Awardees, the LAO calculated interest from the date of filing of the applications U/s. 28-A of L.A.Act i.e. 12.8.2002. Aggrieved with the said re-determination of compensation amount, the claimants/awardees have filed writ petition before the Hon'ble High Court in W.P.No.2183/08 contending that they are entitled to interest on the enhanced compensation from the date of notification U/s 4(1) of L.A Act, but not from the date of filling of applications U/s 28-A of the Act. The respondents have also filed a counter affidavit in this W.P. before the Hon'ble High Court. The Hon'ble High Court after hearing both sides, passed an order on 24-7-08, setting aside the award of the LAO Dt. 16-1-2008 passed U/s 28-A of L.A Act to the extent of interest and denying other statutory benefits and held that the writ petitioners shall be entitled to interest and all other statutory benefits in terms of the Award passed by the reference Court viz. the District Judge, Kadapa in LAOP Nos. 890/99 and 891/99 Dt. 25-2-2002. Aggrieved by the said orders of the single Judge of the Hon'ble High Court, the State represented by the LAO and Special Deputy Collector (L.A) T.G.P., Unit-II, Kadapa preferred an appeal before the Division Bench of the Hon'ble High Court of A.P., Hyderabad and the same was numbered as W.A.No. 1785/08. The Division Bench of the Hon'ble High Court dismissed said writ appeal in W.A.No. 1785/08 by a common order Dt. 12.2.09.

In pursuance of the instructions solicited, the Government Pleader for L.A Hon'ble High Court of A.p., Hyderabad has opined that the State is not liable to pay interest to the Awardees U/s 28-A of L.A Act for the period prior to filing of applications by them, as they have not availed the statutory remedy U/s 18 of the L.A Act and State is not responsible for the delay in filing the said applications by them U/s 28-A of the L.A. Act. Further the Government Pleader opined that this is a case fit for filing S.L.P before the Hon'ble supreme Court of India, New Delhi. Accordingly the LAO and Special Deputy Collector (L.A) T.G.P., Unit-II, Kadapa was instructed to file S.L.P. in the Hon'ble Supreme Court of India. In the meanwhile the claimants have filed Contempt Case in the Hon'ble High Court of A.P., Hyderabad in CC.No. 397/09 and the Contempt Case is pending and it is posted to 8-3-10 for personal appearance of the official respondents.

As per the opinion of the Government Pleader (Land Acquisition), High Court of A.P., a Special Leave Petition in SLP No. 13932 of 2009

was filed against the orders of the Division Bench of the Hon'ble High Court in A.S.No. 113/06 and LAAS No. 3903/03 Dt. 18.4.06 and the Hon'ble Supreme Court dismissed the said Special Leave Petition by an Order dated: 21.8.2009. Subsequently, the state represented by the Special Deputy Collector, Land Acquisition, Telugu Ganga Project, Unit-II, Kadapa filed a Review petition in the Hon'ble Supreme Court in Review Petition © No. 2354 of 2009 in SLP © 13932 of 2009. The said Review Petition was dismissed by the Hon'ble Supreme Court on 27.1.2010, the copy of the orders received on 26.2.2010 and in view of the dismissal of the review petition filed by the State in the Hon'ble Supreme Court of India, the Orders of the Division Bench of the Hon'ble High Court in A.S.No. 113/06 and LAAS No. 3903/03 dt: 18.4.2006 have to be implemented. Further, the contempt case filed in CCNo. 297/09 in W.P.No. 2183 of 2008 was posted on 8.2.2010 before the Single Judge of the Hon'ble High Court and the Hon'ble Court extended time for implementation of the Orders of the Court in W.P. 2183 of 2008 by four weeks and the case is posted again on 8.3.2010 and in the case of non-implementation of the orders, the Respondents have to appear before the Hon'ble Court on 8.3.2010. In the light of the facts explained above, it is submitted that the petitioners in C.C.No. 397 of 2009 in W.P.No. 2183 of 2008 have to be paid interest at 15% on enhanced compensation including Market Value and corresponding additional benefits i.e, Solatium at 30% of the Market Value and Additional Market Value at 12% from the date of Notification u/s. 4 (1) to the date of Award for the period proceeding the date of filing their applications under Section 28A and it is to bring to kind notice that out of 142 claimants in the present case, 84 members are covered by another Review Petition relating to same subject filed by the Government in the Supreme Court of India which was assigned Diary No. 16501/2009 in SLP © No. 13853/2009 and the same is pending before the Hon'ble Supreme Court.

The Special Collector, G.N.S.S.Kadapa has further stated that while depositing the decretal amounts under Section 18 of the Land Acquisition Act in LAOP No. 890/99 and 891/99, interest on enhanced Market value only was calculated and interest on additional benefits i.e., Solatium at 30% and Additional Market Value at 12% was not calculated, as the Counsel for the Claimants under Section 18 has given a letter consenting to forgo interest on additional benefits. Accordingly, decretal amounts without interest on additional benefits were deposited in the Civil Court and the same was withdrawn by the claimants. However, no such letter is forthcoming in respect of the claimants under Section 28 A and the opinion of the Advocate General or the Law Department needs to be obtained and a decision has to be taken.

The Special Collector, G.N.S.S. Kadapa has requested to communicate necessary orders of Government for taking further action in the matter.

The Special Deputy Collector, T.G.P. Unit-II, Kadapa has stated that, he has discussed with the Government Pleader, L.A. on 6.3.2010 on the issue of complaints of orders in W.P. No. 2183/08 dated: 21.7.2008 and C.C.No. 397/2009. The Government Pleader, L.A. has advised that there is no way except to comply with the Court orders immediately, and therefore, he has requested to sanction an amount of Rs. 76,44, 679/-.

After careful examination of the matter, Government hereby accord sanction for an amount of Rs.76,44,679/-(Rupees Seventy Six Lakhs Fourty Four Thousand six hundred seventy nine only) towards final decretal charges to be deposited in Lower Court in LA.O.P.No.

890/99 in Award No. 1/94-95 and 2/94-95 Dated: 3.6.1994 pertaining to Rekalakunta Village, Gopavaram Mandal, Kadapa District for the purpose of Somasila Project, subject to verification whether the reference under section 18 (1) of the LA.Act is made to the Lower Court after following all the guidelines/directions on the subject and in case, it is detected that section 28-A reference was made contrary to the rules/guidelines issued by the Government/CCLA, Hyderabad immediate action should be taken to recover the loss sustained by the Government from the staff concerned and filing of restitution petition and also subject to confirmation of the CE (P) concerned as to the extent of land acquired. Further the Special Collector, Kadapa should verify the Calculations made by the RDO (LAO), once again thoroughly with references to the decree and instructions issued by the Govt/CCLA, Hyderabad. On the subject from time to time duly deducting the Income Tax as per rules before depositing the amount in the Lower Court.

The Special Collector, G.N.S.S Kadapa is directed to deposit the above sanctioned decretal amount in the respective court after thorough verification of calculations made by the Land Acquisition Officer once again at his level and also verify the decrees and decretal charges if any, already paid. He is also directed to follow the directions of Hon'ble High Court dated: 30.4.2007 in W.P.No. 2185/2005 in depositing the above sanctioned decretal amount in the respective court.

The amount sanctioned in Para (9) above shall be debitable to the Head of Account under: "4701- COL on Major and Medium Irrigation; 01 – Major Irrigation (Commercial); MH 112 – SRBC; G.H. 11- Normal State Plan; S.H. (26) – 530 Major Works; 532 – Lands (charged)". In case, the available budget provision is not sufficient to meet the present requirement, the expenditure shall be met initially by way of advance from contingency fund subject to surrendering an equal amount from voted grant.

This order issues with the concurrence of Finance (W & P) Department vide their U.O.No.S.P.1302/F7/A2/10-1, Dated: 15.03.2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJIV RANJAN MISHRA
SECRETARY TO GOVERNMENT

To

The Special Collector, G.N.S.S. Kadapa

The Special Deputy Collector, L.A. T.G.P. Unit-II, Kadapa

The Government Pleader, Hon'ble High Court, A.P. Hyderabad in C.C.No. 379/2009 in W.P. No. 27219/2006

The District Collector, Kadapa

The Superintending Engineer, I & cAD, Kadapa

The Chief Engineer (P), Kadapa

The Director of Works and Accounts, Hyderabad

The Director of Treasuries and Accounts, Hyderabad

The District Treasury Officer, Kadapa

Copy to

P.S.to Minister

Law Department/Finance Department

C.No. 5221/L.A.II/A1/2010

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//FORWARDED BY ORDER//

SECTION OFFICER